

Arkansas Department of Human Services

10/15/2010

INVITATION FOR BID (IFB) Notice for Competitive Sealed Bids for Professional and Consultant Services

Invitation for Bid # JHDC 2011-1005

The Arkansas Department of Human Services (DHS), Development Disabilities Services (DDS), Jonesboro Human Development Center (JHDC), an intermediate Care Facility for developmentally disabled adult male and female residents, is seeking bids from responsible and responsive corporations, limited liability corporations, or professional associations qualified to provide the following service/services:

Psychiatric Services at JHDC to include conducting evaluations and psychiatric consultations.

- A. The Division/Office reserves the right to award multiple contracts
- B. Case load in the event of multiple contracts are based on but are not limited to these criteras:
 - 1. Number of people needing Psychiatric Service averaged to the number of available providers.
 - 2. Experience and availability of the provider.

The deadline for submission of bids is October 30, 2010 4:30 pm Central Standard Time

Bids must be received at the address listed below on or before the deadline for submission of bids. Bids will NOT be accepted after this date and time. Respondent must seal the bid envelope and clearly mark it with the Invitation for Bid number, date and time of bid opening, and the bidder's return address.

Bids must be delivered to OR mailed by United States mail to:

Jonesboro Human Development Center Business Office-Business Manager 4701 Colony Drive Jonesboro, AR 72404

OR mailed by commercial mail to:

Jonesboro Human Development Center Attn: Business Office-Business Manager 4701 Colony Drive Jonesboro, AR 72401

Answers to bidders' questions will be posted at http://www.arkanasa.gov/dhs/NewDHS/DHSrfps.html#IFB.

Bids will be opened at the following **time** and **location**: November 1, 2010 at 10:00 am Central Standard Time At the Jonesboro Human Development Center

Business Office 4701 Colony Drive Jonesboro, AR 72404

If you have any questions regarding this Invitation for Bid, or if you need material in a different format, such as large print, you may contact:

Business Office of JHDC				
Ronald Baker				
PHONE:	(870) 932-4043 ext. 154			
FAX:	(870) 935-3463			

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GENERAL INFORMATION

Bid Overview:

DHS, DDS, JHDC, is soliciting bids to provide Psychiatric Services.

- a. The Division/Office reserves the right to award multiple contracts
- b. Case load in the event of multiple contracts are based on but are not limited to these criteras:

 Number of people needing Psychiatric Service averaged to the number of available providers.

 Experience and availability of the provider.

The term of this contract <u>will be a term contract with an effective period of 9 month, which is anticipated to beginning December 1, 2010 – June 30, 2011</u>

The contract may be extended up to six (6) additional one (1) year periods if mutually agreed upon by the vendor and JHDC, subject to approval by the Arkansas Department of Human Services.

Bids:

Contract will be awarded to the lowest responsible, responsive bidder meeting the minimum qualifications as set out herein.

Bids will not be considered if submitted by any person or entity subject to debarment or exclusion under applicable laws, regulations, or rules in effect at the time the bid is made, reviewed, or both.

Bids must be submitted on the designated **Bid Form**, with attachments when appropriate, on or before the date and time specified for bid opening. If this form is not used, the bid may be rejected. The bid must be typed or printed in ink. The signature must be in ink. Unsigned bids will be disqualified. The person signing the bid should show title or authority to bind his/her firm in a contract. Each bid should be placed in a separate envelope completely and properly identified. Late bids will not be considered under any circumstances

Bids must be complete when submitted and should clearly describe the bidder's ability to meet the requirements of the IFB. The bid proposal must include a discrete listing of cost components. In case of conflict between the bidder's proposal and the IFB, the terms of the IFB shall prevail. Failure of the contractor to accept these obligations may result in cancellation of his/her selection. DHS is not liable for cost incurred by respondents or the eventual contractor in the preparation or submission of proposals.

If the bid package contains material that is considered by the respondent to be confidential under Arkansas law, the respondent must so designate the material and state the basis for the claim of confidentiality. In responding to any requests under the Freedom of Information Act (FOI) for materials so designated, DHS shall review the basis for the claim of confidentiality to determine if the claim of confidentiality appears justified.

General Information:

Contract amount will be based on the needs of the division/office. This determination will be made at the sole discretion of the division/office.

Payment will be made after services are rendered. No payment will be made prior to delivery of services and only upon presentation of acceptable invoice itemizing services provided.

DHS reserves the right to accept or reject all or any part of a bid or any and all bids, to waive minor technicalities, and to award the bid to best serve the interest of the state.

Equal Employment Opportunity Policy:

In compliance with **Act 2157 of 2005**, for all competitively procured contracts exceeding \$25,000.00, the Office of State Procurement (OSP) is required to have a copy of the vendor's Equal Employment Opportunity (EEO) Policy prior to issuing a contract award to the vendor. The vendor may submit its EEO policy as a hard copy accompanying vendor's response to this solicitation or in electronic format to DHS at the following e-mail address: Ronald.Baker@arkansas.gov DHS will submit the successful respondent's EEO policy to OSP and OSP will maintain a file of all vendor EEO policies received. The submission by the successful respondent is a one-time requirement but vendors are responsible for providing updates or changes to their respective policies as necessary. Vendors that do not have an established EEO policy will not be prohibited from receiving a contract award, but are required to submit a written statement attesting that they do not have an EEO policy.

Ethical Standards: It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

Audit Requirement: Contractor shall comply with the state audit requirements as outlined in "Arkansas Department of Human Services Audit Guidelines". Copies may be obtained from:

Arkansas Department of Human Services Office of Chief Counsel Audit Section P.O. Box 1437 – Slot S270 Little Rock, Arkansas 72203-1437

Confidentiality of Information: In connection with this contract, each party hereto may receive certain confidential information relating to the other party. For purposes of this contract, any information furnished or made available to one party relating to the financial condition, results of operation, business, customers, properties, assets, liabilities or information relating to recipients and providers, including but not limited to protected health information as defined by the Privacy Rule promulgated pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, is collectively referred to as "Confidential Information". The contractor shall implement and maintain reasonable security procedures and practices appropriate to the nature of the Confidential Information as required by A.C.A. §4-11-104, the Personal Information Protection Act ("the Act"), and shall disclose any breaches of the security of contractor's system as defined by the Act to DHS by contacting the Contract Administrator within one (1) business day of the breach.

The contractor shall safeguard the use and disclosure of information concerning applicants for or recipients of Title XIX services in accordance with 42 CFR Part 431, Subpart F, and shall comply with 45 CFR Parts 160 and 164 and shall restrict access to and disclosure of such information in compliance with federal and state laws and regulations.

The contractor shall treat all Confidential Information which is obtained by it through its performance under the contract as Confidential Information to the extent that confidential treatment is provided under state and federal law, and shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations and securing of its rights hereunder. The parties acknowledge that the disclosure of Confidential Information in contravention of the provisions hereof would damage the party to whom the information disclosed relates and such party has the right to seek all remedies at law or equity to minimize such damage and to obtain compensation therefore. The Contractor agrees to retain all protected health information as defined by the Privacy Rule promulgated pursuant to HIPAA for six (6) years or as otherwise required by HIPAA.

Past Performance: In accordance with provisions of State Procurement Law, R7 19-11-229 Competitive Sealed Bidding – Bid Evaluation paragraph (E)(I) & (ii): a vendor's past performance with the state may be used in evaluation of any offer made in response to this solicitation. The past performance should not be

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greater than three years old and must be supported by written documentation on file in the OSP at the time of the bid opening. Documentation may be in the form of either written or electronic report, Vendor Performance Report, memo, file or any other appropriate authenticated notation of performance to the vendor files.

Anticipation to Award: After complete evaluation of the bid or proposal, the anticipated award will be posted on the DHS website (http://www.arkansas.gov/dhs/homepage.html) and/or the legal section of a newspaper of statewide circulation. The purpose of the posting is to establish a specific time in which vendors and agencies are aware of the anticipated award. The bid results will be posted for a period of fourteen (14) days prior to the issuance of any award. Vendors and agencies are cautioned that these are preliminary results only, and no official award will be issued prior to the end of the fourteen day posting period. Accordingly, any reliance on these preliminary results is at the agency's/vendor's own risk.

The OSP reserves the right to waive this policy, the Anticipation to Award, when it is in the best interests of the State.

Bid Opening:

All bid openings are subject to public viewing.

Bids will be opened at the **time** and **location** indicated on page 1.

Contract:

Contract awardee will coordinate with the following Division/Office individual in execution of the contract:

Contract will be executed as a **Professional and Consultant Services contract** and, as such, will be subject to legislative review and approval by the Arkansas Department of Finance and Administration (DFA), Office of State Procurement (OSP), appropriation of necessary funding, and review by state and federal authorities.

Pricing:

The bid shall include all costs to be incurred in the provision of the service/services. No additional costs may be charged.

Respondent's bid shall be arrived at independently without collusion, consultation, communication, or agreement with any other respondent or with any competitor.

All bid pricing and cost must be listed in United States dollars and cents.

All bids must be submitted in English language.

All bids must be in the unit rate of per hour.

Reimbursement of Expenses: NOT APPLICABLE

Criteria for Award:

An authorized representative of the bidder's firm must sign the **Bid Form** and include the representative's title and telephone number.

To be considered, a bid must meet or exceed the specifications contained in this IFB.

Caution to Bidder:

Bidders are cautioned to ensure that they have received or obtained and responded to any and all addenda to the bid prior to submission. If applicable, addenda will be posted at the following website: http://www.arkansas.gov/dhs/NewDHS/DHSrfps.html#IFB

It is the intent of the State to award this contract as a sole source should the State not receive a responsive and responsible response to the solicitation.

Certification Prior to Award

Pursuant to Act 157 of 2007, all bidders must certify prior to award of the contract that they do not employ or contract with any illegal immigrants in their contract with the State. Bidders shall certify online at: http://www.arkansas.gov/dfa/procurement/pro_index.html

SCOPE OF WORK

Service Specifications:

The contractor will provide psychiatric consultation for individuals of JHDC who may need or who receive psychotropic medications. Services will include:

- 1. Evaluation of residents who are being considered for psychotropic medication
- 2. Evaluation of residents for possible medication adjustments.
- 3. Routine medication checks every three months for residents who are receiving psychotropic medication.
- 4. Participation in the Interdisciplinary Team meeting process as requested.
- 5. On-call services available for consultation with staff.

With each service, the contractor will perform the following functions:

- 1. Examination of the resident and review of the medication record and consult with JHDC's Medical staff, Program Coordinator and/or Behavioral Health staff.
- 2. Enter medication orders as appropriate into the resident's medical chart.
- 3. Write progress notes for resident's file.

All services will be provided when scheduled by JHDC Behavioral Health Department and in accordance with Intermediate Care Facilities for the Mental Retarded (ICF/MR) regulations and the standards of the Commissions of Accreditation of Rehabilitation Facilities (CARF).

The contractor shall provide services up to sixteen (16) hours per month.

Qualifications:

The Contractor must possess the following certification/licensure:

- 1. License to practice as a Psychiatrist by the State of Arkansas
- 2. A Controlled Substance Registration Certificate from the Drug Enforcement Administration
- 3. No pending matters before any state regulatory bodies
- 4. A current health certificate for each person who will provide services

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TERMS AND CONDITIONS

Except upon the approval of DHS, the terms and conditions set out in this section are non-negotiable items and will be transferred to the contract as written.

PROFESSIONAL SERVICES CONTRACT

GENERAL TERMS AND CONDITIONS FOR NON-STATE AGENCY

In consideration of the premises and the mutual agreements hereinafter set forth, the Contractor and the Department of Human Services ("the Department") agree as follows:

Legal Considerations

The contract shall be construed according to the laws of the State of Arkansas. Any legal proceedings against the Department shall be brought in the State of Arkansas' administrative or judicial forums and the rights and remedies of the parties hereunder shall be determined in accordance with such laws. Venue for all legal proceedings shall be in Pulaski County, Arkansas. Nothing in this contract may be construed as a waiver of the Department's sovereign immunity.

In no event shall the initial term of this contract extend beyond the end of the current biennial period unless the General Assembly, prior to the expiration of the biennial period, makes an appropriation for such purpose.

Financial Terms of the Contract

All services rendered under this contract must be billed as set out herein. No services may be billed to a Medicaid Provider or to any other contract. Payments will be made after services are provided based on the following financial terms:

			Match Requirements***	
Funding Source	Reimbursement Method *	Payment Limitations **	Maximum Amount of Match Required <u>OR</u> Percentage of Allowable Billing Required	Type(s) of Match (Select from listing below)
			<u> </u>	

^{*}Reimbursement Method: (Select from the following) <u>Actual Cost Reimbursement; Final Negotiated Rate; Fixed Rate; Scheduled Reimbursement</u>

Donation of Property: Title to or the use of property or equipment has been donated by a public agency for the program(s) covered by this agreement. If title to property is donated, match value is the fair market value of the

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^{**}Payment Limitations: (Select from the following) Quarterly Cumulative; Monthly Cumulative; None

^{***}Matching Requirements: The Contractor certifies the funds, property, goods, or services listed in this section will be used to meet the match requirements of this agreement. If there are no matching requirements for a funding source, enter "None" in the corresponding box above.

Type(s) of Match: The matching requirement may be satisfied by any one or a combination of the following methods unless specific funding source restrictions apply:

<u>Cash Match</u>: Cash will be obtained by the Contractor and will be applied against allowable costs covered by this agreement.

property. If the use of the property or equipment is donated, match value is the fair rental value as determined by applicable Department policy will be used as matching of the payments.

<u>Third Party In-Kind Contributions</u>. Property, goods, or services have been donated by a non-federal agency for the programs(s) covered by this agreement without charge to the contractor. The Code of Federal Regulations, Title 45, Part 74, Subpart G shall be used to establish the basis of valuation.

<u>Funds Transfer</u>: Match funds will be submitted by a third party to the Department of Human Services by check or money order under the terms of this agreement. Matching funds are to be received by the Department in an amount sufficient to match billing before the contractor will be reimbursed for services.

The Contractor certifies that any funds to be donated under this agreement which are derived or come directly or indirectly from Federal or State funds, or any other contractor under contract to the Department, have been specifically listed as a source above.

The Contractor certifies that the matching arrangements comply with requirements established in the Code of Federal Regulations, Title 45, Part 74, Subpart G (Cost Sharing or Matching) and all applicable Department policy.

Term of the Contract

The Department shall notify the contractor at least thirty (30) days prior to the end of the contract period or extension thereof if the State intends to amend to extend the contract. If notification is not made, the contract will terminate at the end of the contract period or current extension thereof.

Terms of Payment/Billing

The Contractor agrees to submit all billing invoices within sixty days of the expiration of the contract. Any billings for services rendered during a particular state fiscal year which are not submitted within ninety days of the end of the fiscal year will not be paid.

Termination of Contract

The Department may cancel this contract unilaterally at any time, for any reason including unavailability of federal funds, state funds or both by giving the other party thirty (30) calendar days written notice, and delivering notice of cancellation either in person or by certified mail, return receipt requested, restricted delivery. Availability of funds will be determined at the sole discretion of the Department.

Payments for completed services or deliverables satisfactorily delivered to and approved by the Department shall be at the contract price. Payment for partially completed services or deliverables satisfactorily delivered to and not yet approved by the Department shall be at a price mutually agreed

upon by the Contractor and the Department. In addition to any other law, rule or provision which may authorize complete or partial contract termination, the Department may terminate this contract in whole or in part when the Department determines that the Contractor or subcontractor has failed to satisfactorily perform its contractual duties and responsibilities.

Procedure on Expiration or Termination

Upon delivery by certified mail to the Contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Contractor shall:

- Stop work under the contract on the date and to the extent specified in the Notice of Termination,
- Place no further orders or enter in any additional subcontracts for services,
- Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination,
- Assign to the Department in the manner and to the extent directed by the Department representative all of the right, title and interest of the Contractor in the orders or subcontracts so terminated. The Department shall have the right, in it's discretion, to settle or pay any and all claims arising out of the termination of such orders and subcontracts,
- With the approval or ratification of the Department representative, settle all outstanding liabilities and all claims arising out of
 such termination of orders and subcontracts, the cost of which would be reimbursable, in whole or part, in accordance with the
 provisions of this Contract.
- Transfer title to the Department and deliver in the manner, at the time, and extent directed by the Department representative, all files, data, information, manuals, or other documentation, or property, in any form whatsoever, that relate to the work terminated by the Notice of Termination.
- Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.

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Take such action as may be necessary, or as the Department representative may direct, for the protection and preservation of
the property related to the contract which is in the possession of the Contractor and in which the Department has or may
acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item or reimbursable price under this clause.

Termination Claims

After receipt of a Notice of Termination, the Contractor shall submit to the Department all outstanding claims within ten (10) working days. The Contractor and the Department may agree upon the amounts to be paid to the Contractor by reason of the total or partial termination of work as described in this section.

In the event of the failure of the Contractor and the Department to agree in whole or in part as to the amount with respect to costs to be paid to the Contractor in connection with the total or partial termination of work as described in this section, the Department shall determine, on the basis of information available, the amount, if any, due to the Contractor by reason of termination and shall pay to the Contractor the amount so determined.

Contractor

It is expressly agreed that the Contractor, officers, and employees of the Contractor or Sub-Contractor in the performance of this contract shall act in an independent capacity and not as officers or employees of the Department. It is further expressly agreed that the Department shall exercise no managerial responsibility over the Contractor nor shall this contract be construed as a partnership or joint venture between the Contractor or any subcontractor and the Department or the State of Arkansas.

The Contractor hereby represents and warrants to the Department that as of the execution date of this Contract:

- The Contractor has been duly organized and is validly existing and in good standing under the laws of the State of Arkansas, with power, authority, and legal right to enter into this Contract.
- There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the Contractor or its properties (i) seeking to prevent the consummation of any of the transactions contemplated by this Contract; or (ii) seeking any determination or ruling that might materially and adversely affect the performance by the Contractor of its obligations hereunder, or the validity or enforceability of this Contract.
- All approvals, authorizations, consents, orders or other actions of any person or of any governmental body or official
 required to be obtained on or prior to the date hereof in connection with the execution and delivery of this Contract and
 the performance of the services contemplated by this Contract and the fulfillment of the terms hereof have been obtained.
- The Contractor and the executive officers of the Contractor have not been the subject of any proceeding under the United States Bankruptcy Code.

Force Maieure

The Contractor will not be liable for any cost to the Department if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, Acts of God, fires, quarantine restriction, strikes and freight embargoes.

Disputes

In the event of any dispute concerning any performance by the Department under the contract, the Contractor shall notify the Division Director in writing. The State Procurement Director or a designee, prior to commencement of an action in court or any other action provided by law, will attempt to negotiate a settlement of the dispute with the parties in accordance with A.C.A. § 19-11-246. If the claim or controversy is not resolved by mutual agreement, and after reasonable notice to the parties in accordance with A.C.A. § 19-11-246 (c) (1), the State Procurement Director or his designee shall promptly issue a decision in writing stating the reason for the actions taken and a copy of the decision shall be mailed or otherwise furnished to the Contractor. This decision will be final and conclusive.

Pending final determination of any dispute hereunder, the contractor shall proceed diligently with the performance of the contract and in accordance with the Division Director's instructions.

Confidentiality of Information

In connection with this contract, the Contractor will receive certain Confidential Information relating to DHS clients. For purposes of this contract, any information furnished or made available to the Contractor relating to DHS clients, the financial condition, results of operation, business, customers, properties, assets, liabilities or information relating to recipients and providers including but not limited to protected health information as defined by the Privacy Rule promulgated pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, is collectively

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referred to as "Confidential Information". The Contractor shall comply with all DHS policies governing privacy and security of Confidential Information, including the contracting division's designation of the Confidential Information as required by the Arkansas Data and System Security Classification Standards, and shall implement and maintain reasonable security procedures and practices appropriate to the nature of the Confidential Information as required by A.C.A. § 4-11-104, the Personal Information Protection Act ("the Act"). In addition, the Contractor shall comply with the Business Associate Agreement between the parties, incorporated herein by reference, and shall disclose any breaches of privacy or security by contacting the Information Technology Security Officer within one (1) business day of the breach by notification to the following e-mail address: dhs-it-security@arkansas.gov.

The contractor shall treat all Confidential Information which is obtained by it through its performance under the contract as Confidential Information as required by state and federal law and shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations. The parties acknowledge that the disclosure of Confidential Information in contravention of the provisions hereof would damage the party to whom the information disclosed relates and such party has the right to seek all remedies at law or equity to minimize such damage and to obtain compensation therefore. The Contractor agrees to retain all protected health information as defined by the Privacy Rule promulgated pursuant to HIPAA for six (6) years or as otherwise required by HIPAA.

The contractor shall safeguard the use and disclosure of information concerning applicants for or recipients of Title XIX services in accordance with 42 CFR Part 431, Subpart F, and shall comply with 45 CFR Parts 160 and 164 and shall restrict access to and disclosure of such information in compliance with federal and state laws and regulations.

Public Disclosure

Upon signing of the contract by all parties, terms of the contract shall become available to the public, pursuant to the provisions of Ark. Code Ann., § 25-19-101 et seq.

Inspection of Work Performed

The State of Arkansas and its authorized representatives shall, at all reasonable times, have the right to enter the Contractor's work areas to inspect, monitor, or otherwise evaluate the quality, appropriateness, and timeliness of work, services, or both, that have been or are being performed.

Subcontracts

The Contractor is fully responsible for all work performed under the contract. The Contractor may, with the prior written consent of the Department, enter into written subcontract(s) for performance of certain of its functions under the contract. No subcontract under this contract shall in any way relieve the Contractor of any responsibility for performance of its duties. The Contractor agrees that all subcontracts shall adhere to Department policies.

The Contractor shall give the Department immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the Contractor or any subcontractor which may result in litigation related in any way to the contract or the Department.

In accordance with Executive Order 98-04, IF the agreement between the contractor and the subcontractor is greater than \$25,000.00:

- The contractor shall require the subcontractor to complete a Contract and Grant Disclosure and Certification Form. This form must be signed no later than 10 days after entering into any agreement with a subcontractor and the contractor shall transmit a copy of this form to the agency.
- The contractor shall include the following in the contract between the Contractor and that Subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates the rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

Audit Requirement:

Contractor shall comply with the Department audit requirements as outlined in "Arkansas Department of Human Services Audit Guidelines". Copies may be obtained from:

Arkansas Department of Human Services Office of Chief Counsel Audit Section P.O. Box 1437 – Slot S270 Little Rock, Arkansas 72203-1437

Indemnification

The Contractor agrees to indemnify, defend, and save harmless the State, the Department, its officers, agents and employees from any and all damages, losses, claims, liabilities and related costs, expenses, including reasonable attorney's fees and disbursements awarded against or incurred by the Department arising out of or as a result of:

- Any claims or losses resulting from services rendered by any person, or firm, performing or supplying services, materials, or supplies in connection with the performance of the contract;
- Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts (including without limitation disregard of Federal or State regulations or statutes) of the Contractor, its officers or employees in the performance of the contract;
- Any claims or losses resulting to any person or firm injured or damaged by the Contractor, its officers or employees by the
 publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a
 manner not authorized by the contract, or by Federal or State regulations or statutes;
- Any failure of the Contractor, its officers or employees to observe local, federal or State of Arkansas laws or policies, including but not limited to labor laws and minimum wage laws.
- The Contractor shall agree to hold the Department harmless and to indemnify the Department for any additional costs of alternatively accomplishing the goals of the contract, as well as any liability, including liability for costs or fees, which the Department may sustain as a result of the Contractor's or its subcontractor's performance or lack of performance.

Assignments

The Contractor shall not assign the contract in whole or in part or any payment arising there from without the prior written consent of the Department representative.

Waiver

No covenant, condition, duty, obligation, or undertaking contained in or made a part of the contract will be waived except by the written agreement of the parties, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply; and until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and under- takings, any other party shall have the right in invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

Department Property

Property, including intellectual property, acquired or created by the Contractor as a Contract deliverable, is the property of the Department. The Contractor shall be responsible for the proper custody and care of all Department owned property, including Department owned property used in connection with the performance of this contract and the Contractor agrees to reimburse the Department for its loss or damage due to negligence, theft, vandalism, or Acts of God.

Use and Ownership of Software

The Contractor will have access to all applications software that the Department requires the Contractor to use in the performance of the services covered in the contract, subject to customary confidentiality and other license terms and conditions. No changes in the applications software may be made without the written consent of the Contract Administrator if the change would have the effect of causing the Department to incur additional costs for either hardware or software upgrades or both.

Any applications software developed by the Contractor in the performance of the services under this contract must become the property of the State of Arkansas at no additional cost. Any existing software applications owned by the Contractor and used in the performance of the services under this contract must be granted to the State of Arkansas at no additional cost, subject to customary confidentiality and other license terms and conditions.

Contract Variations

If any provision of the Contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the Department and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of the Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

Attorney's Fees

In the event that either party to this Contract deems it necessary to take legal action to enforce any provision of the contract, and the Department prevails, the Contractor agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation as set by the court or hearing officer. Legal action shall include administrative proceedings.

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Liability

In the event of non-performance of a contractual obligation by the Contractor or his agents which results in the determination by Federal authorities of noncompliance with Federal regulations and standards, the Contractor will be liable to the Department in full for all penalties, sanctions and disallowances assessed against the Department.

Records Retention

The Contractor agrees to retain all records for five (5) years after final payment is made under this Contract or any related subcontract. In the event any audit, litigation or other action involving these records is initiated before the end of the five (5) year period, the Contractor agrees to retain these records until all issues arising out of the action are resolved or until the end of the five (5) year period, whichever is later. The Contractor agrees to retain all protected health information as defined by the Privacy Rule promulgated pursuant to HIPAA for six (6) years or as otherwise required by HIPAA.

Access to Contractor's Records

The Contractor will grant access to its records upon request by state or federal government entities or any of their duly authorized representatives. Access will be given to any books, documents, papers or records of the Contractor which are related to any services performed under the contract. The Contractor additionally consents that all subcontracts will contain adequate language to allow the same guaranteed access to the records of subcontractors.

Ownership of Documentation

All documents and deliverables prepared by the Contractor and accepted by the Department shall become the property of the Department and shall not be used for any other purpose by the Contractor without the Department's specific written consent.

Disclosure

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the State Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase agreement, or grant and shall subject the party failing to disclose or in violation to all legal remedies available to the Department under the provisions of existing law.

Set-Off

The parties agree that the Department, in its sole discretion, shall have the right to set-off any money Contractor owes the Department from the Department's payment to Contractor under this contract.

State and Federal Laws

Performance of this contract by both parties must comply with State and federal laws and regulations. If any statute or regulation is enacted which requires a change in this contract or any attachment, then both parties will deem this contract and any attachment to be automatically amended to comply with the newly enacted statute or regulation as of its effective date.

Accessibility Act 1227 of 1999

The Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of information technology unless that system meets certain statutory requirements, in accordance with State of Arkansas technology policy standards, relating to accessibility by persons with visual impairments.

Accordingly, the Contractor represents and warrants to the Department of Human Services that the technology provided to the Department of Human Services for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of: (1) providing equivalent access for effective use by both visual and nonvisual means; (2) presenting information, including prompts used for interactive communications, in formats intended for nonvisual use; and (3) after being made accessible, it can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

For purposes of this paragraph, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance. If requested, the Contractor must provide a detailed plan for making the purchase accessible and/or a validation of concept demonstration.

Employee Background Requirements

Contractor shall comply with Arkansas Code Annotated (A.C.A.) §21-15-101 *et seq*, or any amendments thereto, which requires all employees of state agencies, in designated positions including those providing care, supervision, treatment or any other services to the elderly, mentally ill or developmentally disabled persons, to individuals with mental illnesses or to children who reside in any state-operated facility or a position in which the applicant or employee will have direct contact with a child, to have a criminal history check and a central registry check. Should an applicant or employee be found to have been convicted of a crime listed in A.C.A. §21-15-101 *et seq*, that employee shall be prohibited from providing services in a designated position as defined by Arkansas law or being present at the facility. Should an applicant or employee be found to have been named as an offender or perpetrator in a true, substantiated, or founded report from the Child Maltreatment Central Registry, the Adult Abuse Central Registry, or the Certified Nursing Assistant/ Employment Clearance Registry, the applicant/employee shall be immediately disqualified.

Prohibition Against Contingent Fees

It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

Compliance with Department Policy Issuances

The Contractor agrees to deliver the services authorized by this contract or any attachment in accordance with all policies, manuals and other official issuances of the State of Arkansas and Department promulgated through the Administrative Procedures Act.

Relinquishment

The failure of the Department to insist upon the performance of any of the conditions in any one or more instances shall not be construed as a waiver or relinquishment of the future benefit of said condition.

Entire Contract

The parties acknowledge that each have read this Contract, understand it and agree to be bound by the terms. The parties further agree that this Contract is the complete and exclusive statement

of the agreement of the parties with respect to the subject matter hereof and that it supersedes all prior proposals, representations, arrangements, understandings, and agreements, whether oral or written, between the parties with respect to the subject matter hereof.

This Contract may not be modified, amended, or in any way altered except by a written agreement duly executed by the parties and approved in accordance with the laws and established procedures of the State of Arkansas.

Survival of Rights and Obligations

The right and obligations of the Parties under this Contract shall survive and continue after the ending or expiration of the term of this Contract, and shall bind the parties, and their legal representatives, successors, heirs and assigns.

Notices

All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if mailed by first class mail, postage prepaid, to:

	(address)	
Attention:		_
(na	me of contractor contact person or such other name or address as	_
`	1	
-	1	
	4701 Colony Drive	
	(address)	
	Jonesboro, AR 72404	
Attention:	Business Office-Ronald Baker	
	(name of Department contact person)	
	(na may he partment shou	Attention: (name of contractor contact person or such other name or address as may hereafter be furnished to Department in writing by the Contractor) partment should be mailed to: 4701 Colony Drive (address) Jonesboro, AR 72404 Attention: Business Office-Ronald Baker

Severability of Provisions

If any one or more of the covenants, agreements, provisions or terms of this Contract shall be for any reason whatsoever held invalid, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants,

agreements, provisions or terms of this Contract and shall in no way affect the validity or enforceability of the other provisions of this Contract.

Certification Regarding Lobbying:

The Contractor will comply with public law 101-121, section 319 (section 1352 of Title 31 U.S.C.) for an award in excess of \$100,000.00 by certifying that appropriated federal funds have not been or will not be used to pay any person to influence or attempt to influence a federal official/employee in connection with the awarding of any federal contract, grant, loan or cooperative agreement.

If the Contractor has paid or will pay for lobbying using funds other than federal appropriated funds, Standard Form-LLL (Disclosure of Lobbying Activities) shall be completed and included as an attachment to this contract.

Certification Regarding Debarment

The Contractor, as a lower tier recipient of \$25,000.00 or more in federal funds, will comply with Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions). By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

- are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal or state agency
- where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions* without modification in all lower tier covered transactions.

Contractor certifies that the Contractor is in compliance with Public Law 101-121 (Certification Regarding Lobbying) and Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions):

Certification Regarding Employment Practices

Neither the Contractor nor its subcontractors shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. The Contractor must take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. Such action shall include, but not be limited to, the following:

- Employment
- Promotion
- Demotion or transfer
- Recruitment or recruitment advertising
- Layoff or termination
- Rates of pay or other forms of compensation, and
- Selection for training, including apprenticeship.

Contractor certifies that neither the contractor nor its subcontractors shall discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin, age (except as provided by law) or disability. Contractor must insure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, gender, national origin, age (except as provided by law) or disability. Such action shall include, but not be limited to, employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeships.

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PERFORMANCE BASED STANDARDS

NOTE: These Performance Based Standards are EXAMPLES ONLY and represent the <u>types</u> of standards which will be included in the contract.

ARKANSAS DEPARTMENT OF HUMAN SERVICES PERFORMANCE BASED CONTRACTING

Pursuant to Ark. Code Ann. 19-11-1010 et. seq., the selected contractor shall comply with performance based standards. Following are the performance based standards that will be a part of the contract and with which the contractor must comply for acceptable performance to occur under the contract.

- I. The contract must comply with all statutes, regulations, codes, ordinances, licensure or certification requirements applicable to the contractor or to the contractor's agents and employees and to the subject matter of the contract. Failure to comply shall be deemed unacceptable performance.
- II. Except as otherwise required by law, the contractor agrees to hold the contracting Division/Office harmless and to indemnify the contracting Division/Office for any additional costs of alternatively accomplishing the goals of the contract, as well as any liability, including liability for costs or fees, which the contracting Division/Office may sustain as a result of the contractor's performance or lack of performance.
- III. During the term of the contract, the division/office will complete sufficient performance evaluation(s) to determine if the contractor's performance is acceptable.
- IV. The contract program deliverables and performance indicators to be performed by the contractor are:
 - (A) Program Deliverable: The contractor shall provide psychiatric services by a Psychiatrist licensed to practice by the State of Arkansas and who has a valid health certificate, and a Controlled Substance Registration Certificate from the Drug Enforcement Administration.

Performance Indicator:

1. The contractor shall provide the Jonesboro Human Development Center (JHDC) copies of valid required licenses, certifications, and health certificates for each person providing services to JHDC.

Acceptable Performance is defined as the contractor providing 100% of the required documents before providing services to the individuals of JHDC without exception.

(B) Program Deliverable: A psychiatric evaluation shall be conducted for the individuals served by JHDC designated by their Interdisciplinary Team (IDT) as needing psychiatric consultation.

Performance Indicator:

- 1. The contractor shall perform the following services for the JHDC.
 - Evaluation of individuals served by JHDC who are being considered for psychotropic medication.
 - b. Evaluation of individuals served by JHDC for possible medication adjustments.
 - c. Routine medication checks every three months for individuals served by JHDC who are receiving psychotropic medications.
- 2. For each of the services listed above, the contractor shall perform:
 - a. An examination of the individual served, a review of their medication records, and a consultation with JHDC medical staff, program coordinator and/or psychology staff.
 - b. Enter medication orders, as appropriate, into each individual's medical chart.
 - c. Write progress notes for each individual's file.
 - d. Complete and sign a "Psychiatric Consult" form.

Acceptable Performance is defined as the contractor examining, evaluating, and completing charting, progress notes, and psychiatric consult form for each individual referred by the IDT team 100% of the time.

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(C) Program Deliverable: The contractor shall review the progress and condition of each individual receiving medication for behavioral or psychiatric reasons on a quarterly basis, or more frequently if necessary, by examining the individual, evaluating documentation such as Behavior Reports, lab test results and staff observations.

Performance Indicator:

1. The contractor shall provide the signed Psychiatric Consult form quarterly, or more frequently if necessary, indicating his/her review and recommendations.

Acceptable Performance is defined as 100% of the Psychiatric Consult forms are received quarterly or more frequently if necessary, with the appropriate signature and contain the psychiatrist review and recommendations.

(D) Program Deliverable: The contractor shall participate in Interdisciplinary Team meetings and/or progress as requested by JHDC.

Performance Indicator:

1. The contractor shall participate in requested meetings or progress either in person, by teleconference, or by written consultation.

Acceptable Performance is defined as 100% of the time, the contractor will participate in meetings and/or progress as requested by JHDC unless extenuating circumstances exist which have been communicated in advance in writing to JHDC.

(E) Program Deliverable: The contractor or their designee will be available twenty four hours per day on an on-call basis for consultation with JHDC's medical department, program coordinators and/or psychology staff. The designee must be a Board Certified psychiatrist licensed to practice in the State of Arkansas.

Performance Indicator:

1. The contractor shall respond to all calls from JHDC within two hours of each call.

Acceptable Performance is defined as 100% of the time, the contractor will respond within two hours of each call.

(F) Program Deliverable: The contractor shall provide all services in accordance with Intermediate Care Facility for the Mentally Retarded (ICF/MR) regulations and the Commission of Accreditation of Rehabilitation Facilities (CARF) standards.

Performance Indicator:

1. The contractor shall adhere to all ICF/MR regulations and CARF standards.

Acceptable Performance is defined as 100% of the time, the contractor will provide services in accordance to ICF/MR regulations and CARF standards.

(G) Program Deliverable: The contractor will provide services as listed in Program Deliverables A-F to individuals served by JHDC.

Performance Indicator:

1. The contractor shall provide services up to sixteen hours per month for twelve months.

Acceptable Performance is defined as providing services to meet 100% of the Program Deliverables A-F.

(H) Program Deliverable: The Superintendent, or their designee will conduct performance evaluations quarterly, or as determined necessary, to determine if the contractor's performance is adequate.

Performance Indicator:

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1. The contractor shall perform all Program Deliverables A-G within the guidelines written in the corresponding program indicators. All performance evaluations of inadequate work performance will be addressed in writing to the contractor by the Superintendent (or their designee) and copied to the Business Office.

Acceptable Performance is defined as 100% of all the Program Deliverables and Indicators A-G are met. Final payment shall not be made if a performance evaluation of inadequate performance is submitted.

REMEDIES FOR UNACCEPTABLE PERFORMANCE

Acceptable performance of all provisions and performance indicators in this contract shall be determined in the sole discretion of the contracting division. In addition to other remedies identified herein, one or more of the following remedies may be imposed for unacceptable performance of a provision or performance indicator:

- 1. Contractor will be required to submit and implement an acceptable corrective action plan. Payment may be delayed pending satisfactory implementation of the plan.
- 2. Payment may be withheld or reduced.
- 3. The Contract may be terminated.

The remedies listed above are in addition to all others available at law or equity.

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ARKANSAS DEPARTMENT OF HUMAN SERVICES

Bid Form

Service(s): Psychiatric Services

IFB# JHDC 1004

1.	Name and Address of Vendor:			
2.	Name and Phone Number of the Respondent's Contact Person:			
3.	Respondent's Federal Tax Identification Number:			
4.	Respondent proposes to do the work described in this IFB at the following proposed rate(s) or cost(s) during the anticipated contract period: Per Hour rate-			
	ny signature below, I certify that the aforementioned statements are true and correct and I an orized by the respondent to submit this bid on his/her behalf.			
	Signature of Bidder Date			